



City of Norfolk

**Invitation for Bid
IFB 4853-0-2016/EMP
Diving Services**

Issued: December 11, 2015

The City of Norfolk is seeking a responsive and responsible vendor to provide **Diving Service** in accordance with all terms, condition and specifications of this solicitation.

Bid Opening Date and Time: January 21, 2016; 2:00 PM Eastern Time

ACKNOWLEDGE RECEIPT OF ADDENDUM(S): #1____ #2____ #3____ #4____ (Please Initial)
THE UNDERSIGNED AGREES TO PERFORM ANY CONTRACT AWARDED AS A RESULT OF THIS SOLICITATION, IN ACCORDANCE WITH THE TERMS, CONDITIONS, AND REQUIREMENTS SPECIFIED HEREIN. THE SIGNATURE BELOW SHALL BE PROVIDED BY AN AGENT AUTHORIZED TO BIND THE COMPANY. FAILURE TO EXECUTE THIS PORTION MAY RESULT IN BID REJECTION.

Bidder Legal Name:	
Virginia State Corporation Commission Number:	
Bidder Contact Name:	
Bidder Contact Email Address:	
Bidder Contact Telephone Number:	
Authorized Agent Signature:	
Authorized Agent Name (Printed):	
Authorized Agent Contact Email:	
Authorized Agent Contact Phone:	
Date:	

I HEREBY CERTIFY THAT MY BID IS IN FULL COMPLIANCE WITH THIS SOLICITATION AND ALL THE TERMS AND CONDITIONS IMPOSED HEREIN AND AGREE TO PERFORM ANY CONTRACT AWARDED AS A RESULT OF THIS SOLICITATION, ACCORDINGLY. AS THE UNDERSIGNED REPRESENTATIVE FOR THE BIDDER, I ALSO CERTIFY THAT I AM AN AGENT AUTHORIZED TO BIND MY COMPANY TO THIS BID AND UNDERSTAND THAT FAILURE TO SIGN THIS BID MAY RESULT IN OUR BID BEING REJECTED.

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SECTION I – SCOPE OF SERVICES

A. PURPOSE

The City of Norfolk (the “City”) is soliciting competitive sealed bids from qualified firms to provide all labor, equipment, and tools to provide City Wide Diving Services to include, but not limited to, repair/inspection/installation to equipment on an as-needed basis.

B. OBJECTIVE

The City desires to enter into a five (5) year contract with a qualified firm to achieve the purpose listed above.

C. SCOPE OF WORK

1. DIVER SERVICES

Primarily the Division of Water Production’s; Pumping Facilities, Pipelines, Reservoirs, the Water Treatment Facilities and other City Departments will use this service on an as-needed basis.

- a. The maximum depth of our reservoirs is 60 feet. Confined space diving in some cases.
- b. No hazardous waste diving.
- c. Diver’s suits and all equipment and materials used in drinking water tanks during inspection shall be disinfected with a 200 mg/l chlorine solution in accordance with American Water Works Association’s standard C652-02.
- d. The successful bidder shall ensure diver safety procedures are followed in order to avoid diver injury or death.

2. REPAIR SERVICES

The successful bidder shall provide the following repair services.

Repairs consist of but not limited to:

- a. Lake Aerators and aerator line repair or replacement.
- b. Finished water tank inspections, repair of submerged equipment or valves.
- c. Emergency pipeline repair on 48” and 36” pipelines which travel under the Elizabeth River and across various bodies of water.
- d. Lake Aerator anchor cables, diffuser tray cables, aerator airlines and other parts to the aerator as necessary. The aerators are not electrical powered.
- e. Any supplies and/or materials furnished by the successful bidder shall be compensated at the successful bidder’s actual invoice cost.

3. CURRENT LOCATIONS AND EQUIPMENT

The success bidder shall provide repair/installation services to equipment located at the following sites:

- a. Lake Prince and Western Branch Aerators.
 - i. The City will authorize one hour travel time to and from the Western Branch facilities.
 - ii. The City will authorized one hour and thirty minutes of travel time to and from the Nottoway/Blackwater facilities.
- b. There are 10 aerators at Lake Prince and 17 aerators at Western Branch.

- c. The type of aerator in use is the Layer Air Model LA35PCH by Ecosystems Consulting Services.
- d. The successful bidder shall need, due to a low bridge, a crane to launch a boat in Lake Prince.
- e. A typical boat used in the past to work on the aerators is a 20-25ft Carolina Skiff with deck- mounted crane.
- f. The City will not supply a boat or crane to launch boat.
- g. There is a boat ramp for the Western Branch Reservoir with no overhead obstruction to the aerators.
- h. A boat ramp being designed and will be completed within a year at Lake Prince.

D. BIDDER QUALIFICATIONS

- 1. Each bidder shall provide three (3) references.
- 2. Divers must be certified by Association of Diving Contractors International (ADCI).

SECTION II - INSTRUCTIONS TO THE BIDDER

A. ISSUING OFFICE:

City of Norfolk
Office of the Purchasing Agent
Attn: Eddie M. Powell, Buyer II
232 E. Main Street, Suite 250
Norfolk, VA 23510
Telephone: (757) 664-4025
Fax: (757) 664-4018
Eddie.powell@norfolk.gov

B. CONTRACT ADMINISTRATOR:

Department of Utilities, Water Production

C. CONTACT WITH CITY STAFF, REPRESENTATIVES, AND/OR AGENTS:

Direct contact with City staff, representatives, and/or agents other than the Issuing Office staff on the subject of this IFB or any subject related to this IFB is expressly prohibited except with the prior knowledge and permission of the Purchasing Agent.

D. BIDDERS OF RECORD:

Bidders receiving a copy of this IFB from a source other than the Issuing Office via www.DemandStar.com must contact the Issuing Office and provide Bidder's name, address, contact person, telephone and fax number, and the IFB Item Number. Bidder will be added to the Demand Star Plan holders' list and will receive notification of any addenda to the IFB.

E. IFB SCHEDULE:

Event	Date
IFB Issued	Friday, December 11, 2015
Question 1 Deadline	Friday, December 18, 2015 @ 5:00 PM EST
Amendment 1 Issued	Tuesday, December 22, 2015
Question 2 Deadline	Thursday, January 7, 2016 @ 5:00 PM EST
Amendment 2 Issued	Wednesday January 13, 2016
Bids Due	Thursday, January 21, 2016 @ 2:00 PM
Intent to Award posted	Tuesday January 25, 2016
Contract Start	Monday, February 1, 2016

F. QUESTIONS, CHANGES, MODIFICATIONS AND ADDENDUM(S):

All questions relating to this solicitation shall be submitted via e-mail to Eddie Powell in the Office of the Purchasing Agent, at eddie.powell@norfolk.gov. For a question to be considered, the subject line of the e-mail must state the following: IFB No. 4853-0-2016/EMP Questions. Questions should be succinct and must include the submitter's name, title, company name, company address, and

telephone number. Prior to the award of a contract resulting from this solicitation, bidders are prohibited from contacting City staff other than the Office of the Purchasing Agent.

If any questions or responses require revisions to this solicitation as it was originally published, such revisions will be by formal Addenda only. Bidders are cautioned that any written, electronic, or oral representations made by any City representative or other person that appear to change materially any portion of the solicitation shall not be relied upon unless subsequently ratified by a written Addendum to this solicitation issued by the Office of the Purchasing Agent.

No questions will be considered if they are submitted after Friday, December 18, 2015 at 5:00 PM. Only questions related to the answers provided in Addendum 1 will be addressed in Addendum 2. Questions related to Addendum 1 question responses must be submitted by Thursday, December 22, 2015 at 5:00 pm to be considered for Addendum 2.

G. IFB OPENING:

Bidder shall ensure its Bid is time stamped by the Issuing Office no later than the Opening Date and Time shown on the cover page of this IFB. Bids received after the specified date and time (time stamped 2:01 P.M. or later) will not be considered and will be returned to the Bidder unopened. Bids shall be delivered to:

**Office of the Purchasing Agent
232 E. Main Street, Suite 250
Norfolk, Virginia 23510
IFB 4853-0-2016/EMP, Diving Services**

H. BID SUBMITTAL REQUIREMENTS:

1. Each Bid shall be submitted to the Issuing Office and shall include the following documents:
 - a. The completed cover page of this IFB, which will contain:
 - i. Original signature of an agent authorized to bind the company;
 - ii. Requested contact information;
 - iii. Acknowledgment of any Amendment on page one (1);
 - b. Bid Form Attachment A;
 - c. Attachments B – G;
 - d. Each bidder shall also be required to provide references to demonstrate past experience.
 - i. Bidder shall submit references from three (3) companies, which the Bidder has provided diving services in the last five (5) years from the issuance date of this IFB. References shall include: company name, telephone number, email address, physical address, and when the services were provided (starting and ending).
 - e. Bidder shall provide telephone numbers to contact their personnel for all routine and emergency repair requests. This include holiday and weekend periods. Point of contact phone number_____.
2. All divers performing work on City property shall be compliant with the Association of Diving Contractors International (ADCI) and provide of certification.
3. Bidders are encouraged to submit their Bids on recycled paper and to use double-sided copying.
4. Bids shall be submitted utilizing the following requirements:
 - a. Bidders shall submit bids in a sealed envelope or package, and clearly label the shipping/mailling packaging as well as the outside of your envelope or package with the IFB number, date and time of the IFB Opening, and the Bidder's name and address. **Bids**

received by telephone, facsimile, or any other means of electronic transfer shall not be accepted.

- b. Include a statement setting forth the basis for protection of all proprietary information, if any.

I. METHOD AWARD:

The award of a contract(s) shall be at the sole discretion of the City. Award(s) will be made to the **lowest bidder(s) that is/are responsive and responsible** that complies with all of the provisions of the invitation to bid, provided that the amount does not exceed the amount of funds available to finance the contract. In the event that a responsive bid from the lowest responsible bidder exceeds available funds, the Purchasing Agent may negotiate the amount of the bid with the apparent low bidder to obtain a contract price within available funds.

The City reserves the right to accept or reject any or all bids in whole or in part and to waive informalities. Bidders will submit bids, in accordance with the IFB requirements and maintain compliance with all federal, state and local laws and regulations. The contents of the bid of the Successful Bidder(s) will be incorporated and made a part of any City contractual obligation when the award(s) is made.

The lowest total bid amount will be based on the total for all five (5) years of each bid amount. Please see **Attachment A – Bid Form** to submit bid pricing. Bids will be compared on the basis of a total computed price; arrived at by taking the sum of the quantities of each Bid Item, multiplied by the corresponding unit price bid, and any lump sum Bids on the individual items. The lowest total cost will be determined by totaling fee cost.

Each bidder may be required, at the discretion of the Purchasing Agent, before the award of a contract, to demonstrate to the complete satisfaction of the Purchasing Agent that it has the necessary facilities, ability and financial resources to furnish the goods or services specified herein in a satisfactory manner.

J. DISPOSITION OF BIDS:

All materials submitted in response to this IFB will become the property of the City. One (1) copy of each bid shall be retained for official files and will become a public record after the award and open to public inspection. It is understood that the bid will become a part of the official file on this matter without obligation on the part of the City except as to the disclosure restrictions contained in Section II, E. "Disclosure."

K. DISCLOSURE:

In compliance with the Code of the City of Norfolk, Virginia Section 33.1-9, trade secrets or proprietary information submitted by contractors in connection with a procurement shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the contractors must invoke the protection of this section prior to or upon submission of the data or other materials, and must identify the specific area or scope of data or other materials to be protected and state the reasons why protection is necessary. An all-inclusive statement that the entire bid is proprietary is unacceptable and will not be honored. A statement that costs are to be protected is unacceptable and will be disregarded.

L. COST INCURRED IN RESPONDING:

This solicitation does not commit the City to pay any costs incurred in the preparation and submission of bids or in making necessary studies or designs for the preparation thereof, nor to procure or contract for services.

M. BRAND NAME "OR EQUAL" SPECIFICATIONS:

The provisions of Section 33.1-52 City Code apply. If and wherever in this proposal a brand name, make, name of any manufacturer, trade name, or vendor catalog number is mentioned, it is for the purpose of establishing a grade or quality of material only. Since the City does not wish to rule out other competition and equal brands or makes, the phrase OR AN APPROVED EQUAL is added. However, if a product other than that specified is bid, it is the vendors' responsibility to name such a product within the bid and to prove to the City that said product is equal to that specified. In all instances where an "or equal" or an alternate item is offered, bidders are to include a statement that the item being offered meets the specifications of the requested item. Additionally, bidders shall list all deviations from the listed specifications. Submission of specification sheets, brochures, or published literature describing the item being offered does not fulfill this requirement. Any article which the City in its sole discretion determines to be equal of that specified, considering quality, workmanship, economy or operation, and suitability for the purpose intended, shall be accepted.

N. ANTI-COLLUSION:

Collusion or restraint of free competition, direct or indirect, is prohibited. Contractors are required to execute the anti-collusion statement. See Attachment B.

O. ETHICS IN PUBLIC CONTRACTING:

The contractor shall familiarize itself with Chapter 33.1, Article VII (Sections 33.1-86 through 33.1-93) of the Code of the City of Norfolk, Virginia, 1979, as amended, entitled "ETHICS IN PUBLIC CONTRACTING," including the additional statutes set forth in Section 33.1-86 thereof, which are attached. The contractor shall abide by such provisions in submission of its bid and performance of any contract awarded. See Attachment C.

P. NONDISCRIMINATION:

The contractor agrees that it will adhere to the nondiscrimination requirements set forth in Code of the Norfolk City Section 33.1-53, which will be incorporated into any contract awarded. See Attachment D.

Q. DEBARMENT CERTIFICATION:

The certification regarding debarment, suspension, proposed debarment, and other responsibility matters attached to this IFB must be executed and returned with bid documents. See Attachment E.

R. COMPLIANCE WITH FEDERAL IMMIGRATION LAW:

The contractor shall certify that, at all times during which any term of an agreement resulting from this solicitation is in effect, it does not and shall not knowingly employ any unauthorized alien. For purposes of this section, an "unauthorized alien" shall mean any alien who is neither lawfully admitted for permanent residence in the United States nor authorized to be employed by either Title 8, section 1324a of the United States Code or the U.S. Attorney General. See Attachment F.

S. COMPLIANCE WITH STATE LAW – AUTHORIZATION TO TRANSACT BUSINESS IN THE COMMONWEALTH:

Contractor hereby represents that it is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership and is authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. See Attachment G.

SECTION III: TERMS & CONDITIONS

A. CONTRACT TERM:

For any contract resulting from this IFB, the contract term shall be for five (5)-years beginning on the date of the execution of the agreement.

B. APPROPRIATION OF FUNDS:

Compensation pursuant to performance under this Agreement shall be subject to appropriation by the Council of the City of Norfolk. The City shall not incur any obligation or liability under this agreement beyond the funds appropriated for such obligation or liability in any fiscal year in which this agreement is in effect. In the event sufficient funds are not appropriated, budgeted or appropriated to meet the obligations under this agreement, either party may terminate this agreement by thirty days written notice.

C. FAILURE TO PERFORM:

In case of failure to furnish services in accordance with the resulting agreement terms and conditions, the City will procure the required services from other sources and hold the bidder responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies the City may have.

D. PRIME CONTRACTOR RESPONSIBILITY:

Bidders may propose services that are provided by others, but any services proposed must meet all of the requirements of this IFB.

If the Bidders' bid includes services provided by others, the successful Bidder(s) shall be required to act as the prime contractor for all such items and must assume full responsibility for the procurement, delivery and quality of such services. The prime contractor shall be considered the sole point of contact with regard to all stipulations, including payment of all charges and the meeting of all requirements of this IFB.

E. SUBCONTRACTORS:

Contractor's use of subcontractors and the work they are to perform must receive written approval from the Contract Administrator at least five (5) calendar days prior to the work being performed. Contractor shall be solely responsible for all work performed and materials provided by subcontractors. Contractor shall be responsible for the liability of subcontractors for the types and limits required of the Contractor.

F. GOVERNING LAW AND VENUE:

The laws of the Commonwealth of Virginia and the City of Norfolk shall govern this procurement. Venue shall be in Norfolk, Virginia.

G. INSURANCE REQUIREMENTS:

1. Contractor shall submit to the Issuing Office Certificates of Insurance, prior to beginning work under this contract and no later than five (5) days after award of the contract.
 - a. Contractor shall maintain during the term of this agreement insurance of the types and in the amounts described below. Unless otherwise specifically approved by the City, general liability and automobile/vehicle liability policies will be written in an "occurrence" ISO form

approved for coverage in the Commonwealth of Virginia, The City of Norfolk, Va. and its employees will be included as "Additional Insured" on such policies. All insurance policies affected by this agreement shall be primary and noncontributory to any other insurance or self-insurance maintained by the City. Policy limits may be met via either a singular policy, or in combination with primary and excess, or umbrella, insurance policies. All policies shall provide that the Contractor will receive at least thirty (30) days written notice in the event of cancellation of, or material change in, any of the policies. If the Contractor fails to maintain the insurance as set forth in this Agreement, the City shall have the right, but not the obligation, to purchase such insurance at Contractor's expense.

- b. **COMMERCIAL GENERAL LIABILITY INSURANCE (CGL)** with a limit of not less than \$2,000,000 each occurrence, \$3,000,000 general aggregate. CGL and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and liability assumed under insured contract. Policies shall be extended for, or separate policies maintained, that provides coverage for all Marine Liability exposures associated with the work as described in the RFP that are not covered in the CGL coverages (i.e. certain types vessels, explosion, coverage to contracted employees, damages to underwater equipment owned or belonging to parties other than the insured).
- c. **WORKER'S COMPENSATION INSURANCE AND EMPLOYER'S LIABILITY INSURANCE:** The Contractor shall maintain the applicable statutory Workers' Compensation Insurance, and Employer's Liability Insurance with a limit of at least \$500,000 per accident/disease, and policy limit of \$500,000. Policies shall be extended for, or separate policies maintained, that provides coverage under the United States Longshoreman Act, and, or Jones Act requirements regarding the Vendor's employees, and, for other workers obtained by and under the control of the Vendor, while performing the services arising from this IFB.
- d. **AUTOMOBILE/MOTOR VEHICLE LIABILITY INSURANCE:** The Contractor shall maintain Automobile Liability insurance with a limit of not less than \$ 2 million combined single limit; or, Bodily Injury \$1,000,000 each person, \$2,000,000 accident, and Property Damage \$100,000 each accident. Such insurance shall cover liability arising from any motor vehicle as defined by Commonwealth of Virginia laws and shall include coverage for owned, hired and non-owned motor vehicles, as well as uninsured and underinsured motorists.
- e. **PROFESSIONAL/ERRORS & OMISSIONS LIABILITY INSURANCE:** The Contractor shall maintain during the life of this contract Professional and, or, Errors and Omissions Liability Insurance as shall protect the Contractor against legal liability as a result of alleged negligence or errors and omissions, including personal injury, which may arise from the performance of the Contractor's duties and obligations under this contract whether such operations be by the Contractor, the Contractor's staff, or by any Subcontractor or anyone directly or indirectly employed by either of them. The minimum acceptable limits of liability to be provided by such Professional Liability Insurance shall be as follows: not less than \$1,000,000 each occurrence, \$2,000,000 aggregate.
- f. **INSURANCE POLICIES/CERTIFICATE OF INSURANCE**
CONTRACTOR shall furnish the CITY with two (2) copies of the policies, or a certificate(s) of insurance evidencing policies, required in Paragraphs A page 14.of this Agreement. The certificate(s) shall specifically indicate that the insurance includes any extensions of coverage required in Paragraphs A page 14 above. In the event of cancellation of, or material change in, any of the policies, the Contractor shall notify the City within at least 14 days after receiving notice of such cancellation or policy change and provide evidence that insurance coverage is in place to meet the requirements of this agreement.. If coverage on said certificate(s) is shown to expire prior to completion of all terms of this Agreement/Contract,

the CONTRACTOR shall furnish a certificate of insurance evidencing renewal of such coverage to the CITY within 10 days of the effective date such renewal. All certificates shall be executed by a duly authorized representative of each insurer, showing compliance with the requirements of this agreement. Failure of the City, an, or the City's designated agents for this Agreement, to (1) demand such certificates or other evidence of full compliance with these requirements, and, or (2) identify a deficiency from evidence that is provided shall not be construed as a waiver of the Contractor's obligation to maintain such insurance.

- g. SUBCONTRACTOR'S INSURANCE: The Contractor shall require each of his Sub-Contractors to take out and maintain during the life of the subcontract insurance coverage of the same type and limits required of the Contractor for work performed by the sub-contractor. Each Sub-contractor shall furnish to the Contractor two (2) copies of the policies, or certificates of insurance, evidencing such insurance. The Sub-Contractor shall comply with the same requirements regarding indications of coverage, renewal and submission of policies as is required of the Contractor. The Contractor shall furnish at least one copy the Sub-Contractor's polices/certificate to the City.

H. HOLD HARMLESS AGREEMENT:

The Contractor shall indemnify and save harmless the City and its representatives from and against all losses and claims, demands, suits, actions, payments, and judgments arising from personal injury or otherwise, brought or recovered against the City and its representative by reason of any act, negligence or omission of the Contractor, its agents, servants or employees, in the execution of the contracted work, including any and all expense, legal and otherwise, incurred by the City or its representatives in the defense of claim or suit.

I. TERMINATION:

The City may terminate any Contract resulting from this IFB upon thirty (30) days written notice to the successful Contractor(s). In the event of breach, the City shall immediately rescind, revoke, or terminate any contract resulting from this IFB. In the event of termination, all documents and other materials related to the performance of this work will become the property of the City.

J. COOPERATIVE PURCHASING:

The procurement of goods and/or services provided for in this Contract is being conducted pursuant to Virginia Code Section 2.2-4304. Therefore, the Contractor agrees that it will contract with any other public agency or body in the Commonwealth of Virginia who so desires, to permit those public agencies or bodies to purchase such goods and/or services at contract prices, in accordance with the terms, conditions, and specifications of this procurement. The Contractor shall deal directly with each public agency or body seeking to obtain any goods and/or services pursuant to this Contract or from this procurement and in accordance with Virginia Code Section 2.2-4304. The City of Norfolk shall not be responsible or liable for any costs, expenses, or any other matters of any type to either the Contractor or the public agency or body seeking to obtain any goods and/or services pursuant to this cooperative procurement provision. Each entity shall be responsible for the administration of its individual contract with the Contractor."

K. SOLICITATION:

The Contractor will not solicit, entice, hire, or otherwise interfere with the employment relationship of any employees of the City with whom the Contractor comes into contact as a result of work under this procurement during the term of any resulting contract and for six (6) months thereafter.

L. DRUG FREE WORKPLACE:

The City of Norfolk is a drug-free workplace, and as a condition of continued service on the contract, any Bidder personnel assigned to this project may be required to submit to an alcohol/drug test at any time.

The Contractor acknowledges and certifies that it understands that the following acts by the Contractor, its employees or agents performing services on City property are prohibited:

1. The unlawful manufacture, distribution, dispensing, possession or use of alcohol or other drugs; and
2. Impairment from the use of alcohol or drugs (except the use of drugs for legitimate medical purposes as directed by a physician).

M. INVOICING PROCEDURE:

The Contractor shall submit a summary invoice after each delivery, listing the Service Ticket Number performed during the billing period. The invoices must be accompanied by one copy of each signed Service Ticket.

The invoice shall contain the applicable delivery order (DO) number and the name of the Agency receiving the service.

N. CONTRACTUAL DISPUTES

If the Contractor has a claim against the City, whether for money or other relief, the Contractor shall give written notice of intent to file a claim within 48 hours of the occurrence on which the claim is based, or the claim shall be deemed irrevocably waived. Even though a claim is intended, the Contractor shall submit an invoice for final payment within ten working days after completion and acceptance of the work. Pendency of claims shall not delay payment of amounts agreed due in the final payment. After reviewing the facts and circumstances of the dispute, the Contract Administrator shall make a decision regarding the resolution of claims. Under no circumstances may the Contractor suspend, delay, or terminate performance pending resolution of or any action upon any claim. Rather, the Contractor shall have an affirmative and on-going obligation to diligently execute and complete all work in a timely manner pending resolution of any dispute with the City.

O. INDEMNIFICATION

The contractor agrees to indemnify and save harmless the City from and against all claims, damages, losses and expenses (including attorney fees) arising out of, or resulting from, the performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury or destruction of property (real or personal) including loss of use resulting therefore, and (b) is also caused in whole, or in part, by any act of omission of the Contractor, or subcontractor, anyone directly or indirectly employed or controlled by anyone.

In any and all claims against owner, his agent or employees, by any employee of the Contractor or any subcontractor or anyone directly or indirectly employed by any of them or any for whose acts any one or more of them may be liable, the indemnification obligation of the Contractor hereunder shall not be limited in any way by any limits on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under the Workman's Compensation Act, or any disability benefit acts or any other employee benefit act of the Commonwealth of Virginia, or any other state or any insurance policy.

P. REQUIREMENTS CONTRACT (ESTIMATED QUANTITIES)

The Contractor shall furnish all of the items or services described in the Contract if so requested by the City. The Contractor understands and agrees that this is a requirements contract and the City will have no obligation to the Contractor if no or fewer goods or services are required or requested by the City. Any quantities, which are included in the Contract, are the present expectations of those who are planning for the City for the period of the Contract. The amount is only an estimate and the Contractor understands and agrees that the City is under no obligation to the Contractor to buy that amount or any amount as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. The Contractor further understands that the City may require goods and/or services in excess of the estimated annual contract amount and that such excess shall not give rise to any claim for compensation other than compensation at the unit prices set forth in this Contract.

Q. PURCHASE ORDER TERMS AND CONDITIONS:

- 1. DELIVERY AND ACCEPTANCE:** Time of delivery is of the essence of this contract. City reserves the right to refuse any goods and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions. Acceptance of any part of the order shall not bind City to accept future shipments, nor deprive it of the right to return goods already accepted.
- 2. LATE DELIVERIES OR NON-COMPLIANT GOODS:** Should shipment of any part of this order be delayed beyond the time specified in the proposal, bid, or quotation for the same, or beyond the time specified herein, or if no time is specified, then beyond a reasonable time, or if any article should fail to comply with specifications, the City is to have the right to purchase such articles at the market price for immediate delivery and any excess in the cost of same over the price shown herein is to be paid by the contractor under this order, or deducted from any monies now due or hereafter accruing to him from the city.
- 3. DELIVERY AND RISK OF LOSS:** Delivery shall not be deemed to be complete until goods have been actually received and accepted by the City. Risk of loss remains with the Seller until acceptance.
- 4. DEFECTS:** By accepting this order, Seller acknowledges that the goods covered by this order are satisfactory for the purposes set forth by the City in the bid invitation.
- 5. PRICES:** Unless otherwise provided, goods shall be furnished at the prices indicated on this order only. Invoices will be honored for purchase order prices only.
- 6. PATENT INFRINGEMENT:** Seller agrees to indemnify City and hold it harmless from and against all liability, loss, damage and expense, including reasonable counsel fees, resulting from any actual or claimed trademark, patent or copyright infringement, or any litigation based thereon, with respect to any part of the goods covered by this order, and such obligation shall survive acceptance of the goods and payment therefore by the City.
- 7. PRODUCT WARRANTY:** Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the City. Seller warrants that the goods furnished will conform to the specifications, drawings, and description listed in the bid invitation, and to the sample (s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings, and description, the specifications shall govern.
- 8. PACKING:** All goods, wrappers and containers must bear marking and labels required by applicable federal, state and municipal laws and regulations for the protection and safety of persons and property and Seller warrants that prices include all charges for packing, crating and transportation to F.O.B. point.
- 9. DATA:** Seller shall not use or disclose any data, designs, or other information belonging to or supplied by or on behalf of City, except in the performance of this or other orders for City. Upon City's request, such data, designs, or other information and any copies thereof shall be returned to City. Where City's data, designs or other information are furnished to Seller's suppliers for procurement of supplies by Seller for use in the performance of Buyer's orders, Seller shall insert the substance of the provision in its orders.
- 10. LABOR DISPUTES:** Whenever any actual or potential labor dispute delays or threatens to delay the timely performance of this order, Seller shall immediately give notice thereof to City.
- 11. CHANGE ORDER:** This contract can be modified or rescinded only by a writing signed by the City Purchasing Agent or his duly authorized agent.
- 12. GRATUITIES:** The City may by written notice to the Seller, cancel this contract without liability on the part of the City to Seller if it is determined by City that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Seller, or any agent or representative of the Seller, to any officer or employee of the City of Norfolk with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performing of such a contract.

- 13. SAFETY:** Seller guarantees that the design of all equipment being purchased conforms to all regulations of the Federal Occupational Safety and Health Act at time of delivery. Seller agrees to furnish Material Safety Data Sheet (Form OSHA-20) as applicable for hazardous or potentially hazardous products.
- 14. ADVERTISING:** Seller agrees not to use the name of City or to quote the opinion of any City's employees in any advertising without obtaining the prior written consent of City.
- 15. ASSIGNMENT:** Assignment is prohibited unless Vendor obtains prior written approval of the City.
- 16. DISCRIMINATION PROHIBITED:** The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

SECTION IV – ATTACHMENTS

ATTACHMENT A – BID FORM

The pricing form is included as a separate Microsoft Excel document. All bidders shall submit pricing in a completed and printed Excel document. Deviations to the bid form will not be waived as minor irregularities. Bidders shall use the formulas provided in the Excel document and only submit unit prices for each year of each bid lot for Attachment A.

ATTACHMENT B – ANTI-COLLUSION STATEMENT

TO ALL BIDDERS: EXECUTE AND RETURN WITH BID DOCUMENTS.

In the preparation and submission of this bid, on behalf of _____ (name of Bidder), we did not either directly or indirectly enter into any combination or arrangement with any person, firm or corporation, or enter into any agreement, participate in any collusion, or otherwise take any action in the restraint of free competition in violation of the Sherman Anti-Trust Act, 15 USCS Sections 1 et seq., or the Conspiracy to Rig Bids to Government statutes, Virginia Code Sections 59.1-68.6 through 59.1-68.8.

The undersigned Bidder hereby certifies that this agreement, or any claims resulting there from, is not the result of, or affected by, any act of collusion with, or any act of, another person or persons, firm or corporation engaged in the same line of business or commerce; and, that no person acting for, or employed by, the City of Norfolk has an interest in, or is concerned with, this bid; and, that no person or persons, firm or corporation, other than the undersigned, have or are interested in this bid.

Name _____

Signature _____

Title _____

Date _____

Company _____

ATTACHMENT C - ETHICS IN PUBLIC CONTRACTING

Sec. 33.1-86. - Purpose.

The provisions of this chapter supplement, but do not supersede, other provisions of law including but not limited to, the State and Local Government Conflict of Interests Act (Virginia Code, § 2.1-639.1 et seq.), the Virginia Governmental Frauds Act (Virginia Code, § 18.2-498.1 et seq.), and Articles 2 (Virginia Code, § 18.2-438 et seq.) and 3 (Virginia Code, § 18.2-446 et seq.) of Chapter 10 of Title 18.2 (related to bribery). The provisions of this article apply notwithstanding the fact that the conduct described may not constitute a violation of the State and Local Government Conflict of Interests Act.

(Ord. No. 33,095, § 1, 9-11-84; Ord. No. 34,573, § 2, 6-30-87)

Sec. 33.1-87. - Proscribed participation by public employees in procurement transactions.

Except as may be specifically allowed by provisions of the State and Local Government Conflict of Interests Act (Virginia Code, section 2.1-639.1 et seq.), no public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the public body when the employee knows that:

- (1) The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction; or
- (2) The employee, the employee's partners, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five (5) percent; or
- (3) The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or
- (4) The employee, the employee's partner, or any member of the employee's immediate family is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or contractor.

(Ord. No. 33,095, § 1, 9-11-84; Ord. No. 34,573, § 3, 6-30-87)

Sec. 33.1-88. - Solicitation or acceptance of gifts.

No public employee having official responsibility for a procurement transaction shall solicit, demand, accept, or agree to accept from a bidder, offeror, contractor or subcontractor any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal or minimal value, present or promised, unless consideration of substantially equal or greater value is exchanged. The city may recover the value of anything conveyed in violation of this section.

(Ord. No. 33,095, § 1, 9-11-84)

Sec. 33.1-89. - Disclosure of subsequent employment.

No public employee or former public employee having official responsibility for procurement transactions shall accept employment with any bidder, offeror or contractor with whom the employee or former employee dealt in an official capacity concerning procurement transactions for a period of one year from the cessation of employment by the city unless the employee, or former employee, provides written notification to the city manager prior to commencement of employment by that bidder, offeror or contractor.

(Ord. No. 33,095, § 1, 9-11-84)

Sec. 33.1-90. - Gifts by bidders, offerors, contractors or subcontractors.

No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

(Ord. No. 33,095, § 1, 9-11-84)

Sec. 33.1-91. - Kickbacks.

- (1) No contractor or subcontractor shall demand or receive from any of his suppliers or his subcontractors, as an inducement for the award of a subcontract or order, any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged.
- (2) No subcontractor or supplier shall make, or offer to make, kickbacks as described in this section.
- (3) No person shall demand or receive any payment, loan, subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a public contract.
- (4) If a subcontractor or supplier makes a kickback or other prohibited payment as described in this section, the amount thereof shall be conclusively presumed to have been included in the price of the subcontract or order and ultimately borne by the city and will be recoverable from both the maker and recipient. Recovery from one offending party shall not preclude recovery from other offending parties.

(Ord. No. 33,095, § 1, 9-11-84)

Sec. 33.1-92. - Purchase of building materials, supplies or equipment from architect or engineer prohibited.

Except in cases of emergency, no building materials, supplies or equipment for any building or structure constructed by or for the city shall be sold by or purchased from any person employed as an independent contractor by the city to furnish architectural or engineering services, but not construction, for such building or structure, or from any partnership, association, or corporation in which such architect or engineer has a pecuniary interest.

(Ord. No. 33,095, § 1, 9-11-84)

Sec. 33.1-92.1. - Participation in bid preparation; limitation on submitting bid for same procurement.

No person who, for compensation, prepares an invitation to bid or request for proposals for or on behalf of the city shall:

- (i) Submit a bid or proposal for that procurement or any portion thereof; or
- (ii) Disclose to any bidder or offeror information concerning the procurement that is not available to the public. However, the city may permit such person to submit a bid or proposal for that procurement or any portion thereof if the city determines that the exclusion of the person would limit the number of potential qualified bidders or offerors in a manner contrary to the best interests of the city.

(Ord. No. 43,223, § 2, 9-9-08)

Sec. 33.1-92.2. - Certification of compliance required; penalty for false statements

- (1) The city may require public employees having official responsibility for procurement transactions in which they participated to annually submit for such transactions a written certification that they complied with the provisions of this article.
- (2) Any public employee required to submit a certification as provided in subsection (1) who knowingly makes a false statement in the certification shall be punished as provided in section 33.1-95.

(Ord. No. 43,223, § 2, 9-9-08)

Sec. 33.1-92.3. - Misrepresentations prohibited.

No public employee having official responsibility for a procurement transaction shall knowingly falsify, conceal, or misrepresent a material fact; knowingly make any false, fictitious or fraudulent statements or representations; or make or use any false writing or document knowing it to contain any false, fictitious or fraudulent statement or entry.

(Ord. No. 43,223, § 2, 9-9-08)

Sec. 33.1-93. - Penalty for violation.

Willful violation of any provision of this article shall constitute a Class 1 misdemeanor. Upon conviction, any public employee, in addition to any other fine or penalty provided by law, shall forfeit his employment.

(Ord. No. 33,095, § 1, 9-11-84)

State Law reference— Similar provisions, Code of Virginia, § 11-80.

Sec. 33.1-94—33.1-100. - Reserved.

Initial: _____

ATTACHMENT D - NONDISCRIMINATION

Every contract over one thousand dollars (\$1,000.00) shall include or incorporate by reference the following provisions:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
2. The contractor will include the provisions of the foregoing paragraphs a, b, and c in every subcontractor or purchase order of over ten thousand dollars (\$10,000.00), so that the provisions will be binding upon each subcontractor or vendor.

(Ord. No. 33,095, § 1, 9-11-84; Ord. No. 39,912, § 1, 4-11-2000)

Initial:_____

ATTACHMENT E - CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

I. CERTIFICATION.

The Bidder certifies, to the best of its knowledge and belief, that—

(i) The Bidder and/or any of its Principals—

(A) Are ___ are not ___ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal, state or local agency;

(B) Have ___ have not ___, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are ___ are not ___ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) The Bidder has ___ has not ___, within a three-year period preceding this offer, had one or more contracts terminated for default by any federal, state or local agency.

“Principals,” for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

II. INSTRUCTIONS.

a. The Bidder shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

b. A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Bidder’s responsibility. Failure of the Bidder to furnish a certification or provide such additional information as requested by the appropriate City purchasing official may render the Bidder non-responsible.

c. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of a Bidder is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

d. The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Bidder knowingly rendered an erroneous certification, in addition to other remedies available to the City, the appropriate City purchasing official may terminate the contract resulting from this solicitation for default.

III. NOTICE. This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, and United States Code.

Name _____

Signature _____

Title _____

Date _____

Company _____

ATTACHMENT F - COMPLIANCE WITH FEDERAL IMMIGRATION LAW

I. CERTIFICATION.

The Bidder certifies, to the best of its knowledge and belief, that -
The Bidder and/or any of its Principals at all times during which any term of this Agreement is in effect, (Please fill in with your enterprise's complete name)

_____ does not and shall not knowingly employ any unauthorized alien. For purposes of this section, an "unauthorized alien" shall mean any alien who is neither lawfully admitted for permanent residence in the United States nor authorized to be employed by either Title 8, section 1324a of the United States Code or the U.S. Attorney General.

II. INSTRUCTIONS.

- a. The Bidder/Bidder shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- b. A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Bidder /Bidder's responsibility. Failure of the Bidder/Bidder to furnish a certification or provide such additional information as requested by the appropriate City purchasing official may render the Bidder/Bidder non-responsible.
- c. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of a Bidder/Bidder is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- d. The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Bidder/Bidder knowingly rendered an erroneous certification, in addition to other remedies available to the City, the appropriate City purchasing official may terminate the contract resulting from this solicitation for default.

III. NOTICE.

This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under section 1001, Title 18, United States Code.

Name _____ Signature _____

Title _____ Date _____

Company _____

ATTACHMENT G - COMPLIANCE WITH STATE LAW – AUTHORIZATION TO TRANSACT BUSINESS IN THE COMMONWEALTH

I. CERTIFICATION.

A. The Bidder/Bidder (Please fill in with your enterprise's complete name)

_____ certifies that it is organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50.

The identification number issued to Bidder/Vender by the State Corporation Commission:

B. Bidder/Bidder that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall describe why it is not required to be so authorized:

II. INSTRUCTIONS.

a. The Bidder/Bidder shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

b. A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Bidder /Bidder's responsibility. Failure of the Bidder/Bidder to furnish a certification or provide such additional information as requested by the appropriate City purchasing official may render the Bidder/Bidder non-responsible.

c. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of a Bidder/Bidder is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

d. The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Bidder/Bidder knowingly rendered an erroneous certification, in addition to other remedies available to the City, the appropriate City purchasing official may terminate the contract resulting from this solicitation for default.

Name _____ Signature _____

Title _____ Date _____

Company _____